

DOR
4.563

ROY C. WILSON, M.D. DEPARTMENT DIRECTOR

CHAPTER Program Implementation and Records	SUBCHAPTER Transfer Procedures	EFFECTIVE DATE 7/1/99	NUMBER OF PAGES 4	PAGE NUMBER 1 of 4
SUBJECT Hearings for Transfer of Minors to Adult Wards		AUTHORITY Section 630.050, RSMo	HISTORY Revises DOR 4.563 Effective 2/15/82	
PERSON RESPONSIBLE Director, CPS			SUNSET DATE 7/01/2005	

PURPOSE: Prescribes policy regarding hearings for minors being transferred to adult wards as required by section 632.370, RSMo.

APPLICATION: Applies to facilities of the Division of Comprehensive Psychiatric Services.

(1) Minors recommended for transfer to adult wards under section (7) of this DOR, or minors immediately transferred to adult wards under section (8) shall be provided due process hearings as set forth in this DOR.

(2) For the purposes of this DOR the following definitions apply:

(A) "Minor," any person under the age of eighteen years. This definition includes persons under the age of eighteen who are certified by the juvenile/family courts to stand trial as an adult following the alleged commission of a crime and excludes persons whose minority status has been extended by the juvenile family courts beyond the age of 18.

(B) "Coordinator of Children and Youth Services," the individual appointed by the Director of the Division of Comprehensive Psychiatric Services to provide policy leadership and program oversight for children and youth services through the Division.

(C) "Receiving facility," the facility that has the adult unit to which the minor is to be, or has been, transferred.

(D) "Referring facility," the facility or vendor requesting the transfer of a minor to an adult treatment setting.



(E) "Appropriate transfer," the receiving facility has the resources to effectively provide for a minor's medical, educational, psychiatric and safety needs.

(F) "Necessary transfer," when the referring facility cannot effectively provide for a minor's medical or psychiatric needs, or safety needs of the minor patient, other patients, staff or the general public.

(G) "Required parties," the minor, the minor's parents, guardian or other legal custodian, the minor's last known attorney of record, all courts maintaining jurisdiction, the assistant general counsel for the referring facility, and the proposed receiving facility.

(3) A facility may transfer a minor to an adult ward only if the transfer is necessary and appropriate for the minor's medical or psychiatric needs or for the safety of the minor patient, other patients or the general public. The head of the referring facility shall have the burden to show that the transfer is necessary and appropriate.

(4) Emergency Transfer Criteria: The head of the referring facility may transfer a minor to an adult ward without a pre-transfer hearing only if special circumstances require the immediate transfer and a pre-transfer hearing is not feasible. The head of the referring facility shall document in the minor's medical record the special

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circumstances which caused the transfer and has the burden to show an emergency transfer is necessary and appropriate.

(5) The director of the Division of CPS shall designate hearing officers to hold the pre- and post-transfer hearings under this DOR. A hearings officer shall not be an employee of the referring or receiving facility.

(6) Before any pre- or post-transfer hearing, the treatment team of the receiving adult unit shall review the minor's current status and recommend on the appropriateness of the transfer in meeting the needs of the minor and/or public safety. The team's evaluation and recommendation shall be filed in the minor's medical record and be available to the hearings officer at the hearing.

(7) Pre-Transfer Hearing Process: The head of the referring facility may apply for a pre-transfer hearing on DMH Form (see attached draft form) "Application for Transfer Hearing for Minor Transferred To Adult Ward" to the Coordinator. The Coordinator shall approve or deny the application for a pre-transfer hearing.

(A) The Coordinator will determine if a hearing will be granted within three (3) working days of receipt of the application and notify the hearings officer and referring facility of said decision;

(B) If approved, the hearings officer shall set the date, time and location of the hearing, which should be within five (5) working days of the Coordinator's approval of a hearing;

(C) The head of the referring facility shall provide written notification to required parties at least two (2) working days before a pre-transfer hearing of the time, date, place and reasons for the transfer.

(D) If the application for a pre-transfer hearing is denied by the Coordinator, the minor shall not be transferred.

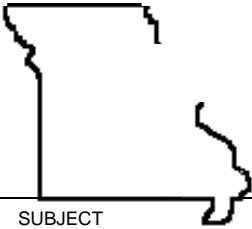
(8) Post-Transfer Hearing Process: The head of the referring facility shall request a post-transfer hearing for any minor admitted or immediately transferred to an adult ward. The head of the referring facility shall contact the Coordinator within twenty-four (24) hours following the transfer excluding Saturdays, Sundays and legal holidays observed by the Department for approval and notify the hearings officer and receiving facility.

(A) The hearings officer is to arrange a date, time and location for the hearing and notify the referring facility;

(B) The hearing shall be held within five (5) working days following the transfer unless a continuance is requested by the minor, the minor's parents, legal custodian or the minor's attorney and the request is approved by the hearings officer;

(C) The head of the referring facility shall provide written notification to the required parties at least two (2) working days before a post-transfer hearing of the time, date, place and reasons for transfer.

(9) During either the pre- or post-transfer hearings, the minor, the minor's guardian, and/or the minor's legal representative shall be allowed to attend the transfer hearing, present information and question witnesses.



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(10) The hearings officer shall decide whether the minor shall be transferred or, if the minor has already been transferred, whether the minor shall remain on the adult ward. Within four (4) working days following the hearing, the hearings officer shall submit written findings of fact, conclusions, and decision as to the necessity and appropriateness of the transfer or proposed transfer to the director of the Division of CPS, Coordinator and all required parties.

(11) The referring facility shall notify, in writing, any court of competent jurisdiction of the outcome of the transfer hearing noting the facility name, address and contact where the minor is currently in treatment.

(12) A copy of the hearings officer's finding of fact, conclusion, and decision regarding the transfer and right to appeal shall be filed in the minor's medical record. Copies and notice of right to appeal shall be given to all required parties.

(13) Appeal Process: A minor's legal guardian or attorney may request the director of the Department, or designee, to review the decision of the hearings officer.

(A) The minor's guardian or attorney may request, in writing, the review within ten (10) working days following receipt of the decision of the hearings officer and give the request to the head of the facility where the minor is currently admitted..

(B) Upon receiving notice of the written request, the head of the facility where the minor is currently admitted shall notify the Department Director's office and transfer copies of documents in the minor's medical record related to the appropriateness and reasons for the transfer to the Department Director or designee;

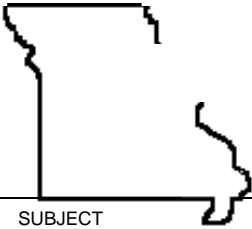
(C) During the review, the Department Director, or designee, may receive additional written information on the behalf of the minor, the referring facility and/or the receiving facility.

(D) Within seven (7) working days after receiving the minor's medical record, the Department Director, or designee, shall sustain or overrule the decision of the hearings officer. The decision of the Department Director, or designee, shall be final and documented on DMH Form (see attached draft), "Review Decision by Department Director."

(E) The head of the facility where the minor is currently admitted shall have the decision of the Department Director filed in the minor's medical record and give notice to all required parties.

(14) If a minor has been transferred to an adult unit, the Children and Youth Area Director in the region of the adult facility shall be notified by the referring facility to assist in monitoring that youth and assuring his/her needs are being met, including but not limited to educational needs, and facilitate provision of any specialized consultation or services with the adult facility that may be needed to specifically address the developmental needs of that youth.

(15) When a minor has been transferred to an adult facility, the necessity and appropriateness of that placement should be reviewed and documented within each monthly treatment plan review.



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(16) If a minor has been transferred to an adult unit, and the treatment team of the adult unit feels the minor may now be appropriate for transfer back to a youth treatment setting, the adult unit treatment team shall conduct a joint staffing with the referring youth facility/unit. If a decision is mutually agreed upon, the decision should be documented in the minor's chart and appropriate action taken, with all required parties notified including any court of competent jurisdiction. If a mutually agreed upon decision cannot be reached, the case should be presented to the Regional Administrator of the original referring facility, or their designee, to provide the final decision.

History: Original DOR effective February 15, 1982. Amended effective July 1, 1999. On July 1, 2003 the sunset date was extended to July 1, 2004. On July 1, 2004 the sunset date was extended to July 1, 2005.